

ARTICLE XIII
MOUNTAIN RIDGE PROTECTION REGULATIONS

Section 1301. TITLE

This Article shall be known as the Mountain Ridge Protection regulations of the Town of West Jefferson, North Carolina.

Section 1302. PURPOSE

The Board of Aldermen finds that the construction of tall buildings or structures on mountain ridges may cause unusual problems and hazards to the residents of and visitors to the mountains. The purpose of this Article therefore is to regulate the construction of tall buildings or structures on mountain ridges to ensure that: adequate water supply is available to such building or structure; the protection of the health of those persons living at lower elevations; adequate fire protection can be made available; such buildings or structures will not be a hazard to air navigation and to persons on the ground; and such tall buildings will not detract from the natural beauty of the mountains.

Section 1303. AUTHORITY AND ENACTMENT

In pursuance of the authority conferred by Article 14 of Chapter 113A of the North Carolina General Statutes, the Board of Aldermen of the Town of West Jefferson, North Carolina, hereby ordains and enacts into law these articles and sections.

Section 1304. JURISDICTION

The provisions of this Article shall apply to the construction of tall buildings or structures, as defined in this Article, on protected mountain ridges, as defined in this Article, within the corporate limits of the Town of West Jefferson, North Carolina. Pursuant to the G. S. 160A-360, if the municipality is exercising extraterritorial jurisdiction, this Article may also apply in said extraterritorial jurisdiction. Protected mountain ridges are further identified by the map entitled "Identification of Protected Mountain Ridges in the Town of West Jefferson" and is on file in the office of the Zoning Administrator and with the Register of Deeds of Ashe County.

Section 1305. INTERPRETATION AND DEFINITIONS

Except as specifically defined herein, all words used in this Article shall have their customary dictionary definitions. For the purpose of this Article, certain words or terms used herein are defined as follows:

- 1305.01 The word ("Town") shall mean the Town of West Jefferson, North Carolina.
- 1305.02 The words ("Board of Aldermen") shall mean the Board of Aldermen of the Town of West Jefferson, North Carolina.
- 1305.03 The words "Planning Board" shall refer to the West Jefferson Planning Board.
- 1305.04 The word "Article" shall mean the Mountain Ridge Protection regulations of the Town of West Jefferson, North Carolina.
- 1305.05 The word "may" is permissive.
- 1305.06 The word "shall" is mandatory.
- 1305.07 The word "building" includes the word "structure."
- 1305.08 Words used in the singular include the plural, and words used in the plural include the singular.
- 1305.09 Building. Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The word "building" shall be construed as if followed by the words "or part thereof."
- 1305.10 Construction. Any new construction, reconstruction, alteration or expansion.
- 1305.11 Crest. The uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.
- 1305.12 Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

- 1305.13 Protected mountain ridges. All mountain ridges whose elevation is at least three thousand (3,000) feet and whose elevation is five hundred (500) or more feet above the elevation of an adjacent valley floor.
- 1305.14 Ridge. The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within one hundred (100) feet below the elevation of any portion of such line or surface along the crest.
- 1305.15 Structure. Anything constructed or erected, including, but not limited to buildings, that requires location on the land or attachment to something having permanent location on the land.
- 1305.16 Tall buildings or structures. Any building, structure or unit within a multi-unit building, with a vertical height of more than forty (40) feet measured from the top of the foundation of said building, structure or unit and the uppermost point of said building, structure or unit; provided, however, that where such foundation measured from the natural finished grade of the crest or the natural finished grade of the side slope of a ridge exceeds three(3) feet shall be included in the 40-foot limitation described herein; provided, further, that no such building, structure or unit shall protrude at its uppermost point above the crest of the ridge by more than thirty-five (35) feet. Tall buildings or structures do not include:
- (1) Water, radio, telephone or television towers or any equipment for the transmission of electricity or communications or both.
 - (2) Structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flag poles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills.
 - (3) Buildings and structures designated as National Historic Sites on the National Archives Registry.

Section 1306. ADMINISTRATION AND ENFORCEMENT

1306.1 Permits. No tall building or structure shall be constructed, altered, reconstructed or expanded on any protected mountain ridge until a permit for such construction, alteration, reconstruction or expansion has been obtained as provided in this Article. No permit shall be issued that would not be in compliance with the provisions of this Article.

1306.2 Zoning Administrator. It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Article.

1306.3 Application for Permit.

All applications for permits shall be submitted to the Zoning Administrator and shall be accompanied by a development plan containing, where applicable, the following information:

- (1) Title block containing the name of the development, name of owner, name of developer, scale, and north arrow.
- (2) Existing site conditions, including contours, water sources, any unique natural or man-made features such as vegetation and ground cover.
- (3) A map with the exact boundary lines of the property described by metes and bounds and showing the proposed construction.
- (4) Location and use of all existing and proposed buildings or structures.
- (5) Plans of proposed water and sewer layouts (excluding individual wells and septic systems) shall show the location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains, and the connection of the proposed system with existing systems.
- (6) Location of existing and proposed easements and rights-of-way.
- (7) The proposed treatment of the perimeter of the development including materials and/or techniques such as screens, fences and walls.
- (8) Information on adjacent land areas, including land use, zoning classifications, public facilities and any unique natural features.

- (9) Existing and proposed road access to and within the development showing rights-of-way and pavement widths. Notation of the proposed ownership of the street system (public or private).
- (10) A front and side elevation profile, drawn to scale, of all existing and proposed buildings.

In addition to the development plan, all applications for permits shall be accompanied by the following documentation:

- (11) If a street is to be dedicated for public use, a letter of approval for the proposed street plans shall be submitted indicating that street plans have been reviewed and approved in the following manner:
 - (a) Street plans shall be reviewed and approved by the N.C. Department of Transportation (or whatever public agency is to accept the dedication and assume maintenance of the streets).
 - (b) Street plans shall contain all data, calculations and information as required by the N.C. Department of Transportation (or other appropriate public agency).
 - (c) The developer shall meet all other requirements of N.C. General Statutes 136-102.6 if the development constitutes a subdivision.
- (12) If the proposed water and/or sewer system is to connect onto an existing system, a letter of approval from the owner of said existing system for such connection shall be submitted. In addition, a letter of approval from the appropriate regulatory agency shall be submitted indicating that the proposed connection will not cause any problems related to overloads, discharges, shortages, etc. on said existing system.
- (13) If an on-site package water and/or sewer treatment system is to be utilized, a letter of approval from the N.C. Department of Human Resources and/or the N.C. Department of Natural Resources and Community Development shall be submitted.
- (14) Documentation of an approved Sedimentation and Erosion Control Plan shall be submitted where required.

- (15) A letter of approval from the appropriate fire department indicating the adequacy of the development facilities for emergency medical and fire services. Such determination shall take into consideration the street access, water pressure and availability, building height, and any other relevant factors.
- (16) A letter from the applicant indicating the land in the proposed development is under single ownership or management by the applicant or proper assurances (legal title or execution of a binding sales agreement) shall be provided indicating that the development can be successfully completed by the applicant.

1306.4 Application Approval.

- (1) The Zoning Administrator shall review the application for compliance with the provisions of 1306.3 Any application not containing all required information shall be returned to the applicant for correction and resubmission. After the Zoning Administrator has determined the application contains all required information, he shall have 10 days to recommend to the Planning Board either approval or disapproval of the application. In making his recommendation, the Zoning Administrator may include any appropriate conditions he feels should be placed on the issuance of the permit.
- (2) First consideration of the application shall be at the next regularly scheduled meeting of the Planning Board after receiving the recommendations of the Zoning Administrator. The Planning Board shall take action on the application at its first consideration or within 30 days of its first consideration. In taking action, the Planning Board shall recommend to the Board of Aldermen either approval or disapproval of the application. If the Planning Board fails to take action within the time period specified in this subsection, it shall be deemed to have recommended approval of the application. The Board of Aldermen shall approve or disapprove the application and if approved authorize the enforcement office to issue a permit within 30 days after submission of the recommendation from the Planning Board. In making its recommendation, the Planning Board may include any appropriate conditions it feels should be placed on the issuance of the permit.

- (3) The Board of Aldermen shall not approve an application until it has determined that the intent of this Article has not been violated. In making such determination, the Board of Aldermen shall not approve the issuance of a permit if the application for said permit fails to provide for:
- (a) sewer lines that meet the requirements of a public wastewater disposal system that it discharges into, or that is part of a separate system that meets applicable state and federal standards.
 - (b) A water supply system that is adequate for fire protection, drinking water and other projected system needs; that meets the requirements of any public water supply system that it interconnects with; and that meets any applicable state standards, requirements and approvals.
- (c) Compliance with applicable state and local sedimentation control regulations and requirements.
- (d) Adequate consideration to protecting the natural beauty of the mountains as determined by the Board of Aldermen. In making such determination, the Board of Aldermen may impose any additional conditions of the permit it deems necessary.
- (4) If the application is approved by the Board of Aldermen, such approval shall be stated in a letter. One (1) copy of said letter shall be sent to the applicant, one (1) copy shall be sent to the Zoning Administrator, and one (1) copy shall be retained by the Board of Aldermen. Said letter shall be sent within five (5) days of approval of the application. Upon receipt of the letter indicating approval the Zoning Administrator shall issue a permit for construction. Said letter shall contain a listing of all conditions imposed on the issuance of the permit.

- (5) The Board of Aldermen shall, if it disapproves the application, make findings of fact to justify such disapproval. These findings of fact shall be entered in the minutes of the council's meeting. In addition, a letter containing the findings of fact and specifying the provisions of this Article with which the application does not comply shall be prepared. One (1) copy of said letter shall be sent to the applicant, one (1) copy shall be sent to the Zoning Administrator, and one (1) copy shall be retained by the Board of Aldermen. Said letter shall be sent within five (5) days of disapproval of the application. If the application is disapproved, the applicant may make such changes as will bring the application into compliance with this Article and resubmit same for reconsideration by the Zoning Administrator.

1306.5 Issuance of Permit.

Upon receipt of a letter from the Board of Aldermen approving the application for a permit, the Zoning Administrator shall issue such permit for construction within 10 days. A copy of the approved permit shall be recorded with the Register of Deeds of Ashe County. The issuance of the permit shall be subject to any conditions imposed by the Board of Aldermen and as stated in the letter approving the application. All conditions specified at the issuance of the permit shall appear on the face of the permit. If no construction has begun within 3 months after the date of the issuance of the permit, the permit shall expire. Construction shall be deemed to have begun when any grading or excavation has commenced. If a permit expires, it shall not be reissued except under the provisions outlined in this Article for all permits.

1306.6 Application to Existing Buildings.

The provisions of this Article shall apply to buildings that existed upon the effective date of this Article as follows:

- (1) No reconstruction, alteration or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with this Article upon its effective date.
- (2) No reconstruction, alteration or expansion may cause or create a violation by an existing building or structure that did comply with this Article upon its effective date.